

1983 WL 181788 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

March 10, 1983

*1 Robert M. Erwin, Jr., Esquire
Burns, McDonald, Bradford, Erwin & Patrick
Suite 201 Park Plaza
Drawer No. 1207
Greenwood, South Carolina 29648-1207

Dear Mr. Erwin:

You have requested the opinion of this Office on the question of whether it would be a violation of the dual office holding provisions of the South Carolina Constitution for a person to serve concurrently on the Greenwood County Hospital Board and on the State Board of Financial Institutions.

It is provided in [Article XVII, § 1A of the South Carolina Constitution](#) that ‘. . . no person shall hold two offices of honor or profit at the same time.’ For this provision to be contravened, a person concurrently must hold two public offices which have duties involving an exercise of some portion of the sovereign power of the State. [Sanders v. Belue, 78 S.C. 171 \(1907\)](#). Other relevant considerations are whether statutes, or other such authority, establish the position, prescribe its tenure, duties or salary, or require qualifications or an oath for the position. [State v. Crenshaw, 266 S.E.2d 61 \(1980\)](#).

The Greenwood County Hospital Board was created by Act No. 554 of the 1968 Acts and Joint Resolutions. The powers and duties of the members of the Board are provided in Section 8 thereof, and include the broad power to operate the hospital, to establish rates for the use of hospital services and facilities, to promulgate rules and regulations concerning the use of hospital facilities, to issue bonds, and to exercise the power of eminent domain. These type functions undoubtedly involve an exercise of the sovereign power of the state so that those serving on the Board would be considered officeholders for dual office holding purposes.

The State Board of Financial Institutions is created pursuant to [§§ 34-1-10 et seq., Code of Laws of South Carolina, 1976](#), as amended. Its powers are broadly defined in § 34-1-60 thereof as being those of supervising all banks and building and loan associations providing regulations and instructions for their direction, control and protection, and the conservation and liquidation of their assets. In so doing the members of the Board perform an important public purpose which involves the exercise of a portion of the sovereign power of the State and therefore would hold offices under the South Carolina Constitution.

Based on the foregoing, it is the opinion of this Office that it would be a violation of the dual office holding provisions of the South Carolina Constitution for a person to serve concurrently on the Greenwood County Hospital Board and on the State Board of Financial Institutions.

Very truly yours,

Helen T. Zeigler
Assistant Attorney General

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